No. 09-848

In The

SUPREME COURT OF THE UNITED STATES

Alvin L. Williams

Petitioner,

vs.

Charles A. Thorsen III

Respondent

On Petition For Writ Of Certiorari
To the Illinois Appellate Court,
First District

PETITION FOR REHEARING

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Pro Se

INTRODUCTION

May it please The Court, pursuant to Rule 44, 2 , that states (in part) "... its grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.", petitioner respectfully requests a rehearing of his Petition For A Writ Of Certiorari To the Illinois Appellate Court, First District

Petitioner believes, unequivocally, that the evidentiary documents, and material facts presented in his initial petition for a writ of certiorari, his petition for rehearing, and the voluminous supportive medical records presented in the lower courts, constitute a manifest weight in the petitioner's favor.

In addition, it is difficult to separate denial of constitutional right of trial by jury in view of newly enacted IL Supreme Court Rule 3.4, [1]: in this case, obstruction during deposition and inadequate response to Notice To Produce. Petitioner is certain that given the opportunity to present his case to lay persons of a jury that a just verdict will be rendered for he

Certainly there has to be a venue that petitioner, pro se, may be allowed to receive a trial by jury, in light of presumed violations of Illinois Statutes and other case law, of Discovery Rules; misrepresentation denying that a physician report was filed **(R. C00047)**; denial of Motion for Sanctions**(R. C01068-C01225)**--said to be premature by the trial court; extension of time for filing appellee brief in appellate court, although the deadline was missed by five (5) days, impeachable statements in respondent's deposition, and filing of frivolous motions **(R. C00964)**

Furthermore, the appellate court failed to realize that the trial court admitted, that when it comes to

medical matters associated with stroke, vascular injury, and affect on eyesight, it stated that, " *this is not my area of expertise.*" **(R.C00974)** Then how can the court conduct a summary judgment on the medical issues that the court does not fully understand, without an expert witness? Nor did it consider the fact that the respondent "failed to initiate treatment"

Petitioner pleaded prior that he intended to use the defendant doctor as his expert witness. **(R. C01640);** The jury was to determine issues of fact, and the court, issues of law. There seems to have been a serious breakdown in the administration of justice.

The following pages give reasons to support substantial grounds not previously presented.

I. In avoiding a trial on the issues, the Illinois Appellate Court allowed the respondent to file his appellee brief although he,

(a) missed his due date,
(b) did not file for an extension prior to the due date,
(c) motioned the court for an extension five (5) days after the due date, and
(d) was issued an extension by a single justice within 6 days of filing the motion (due date June 6, 2008, motion filing date June 11, 2008, approved June 17, 2008)

Respondent was granted until July 11, 2008 to turn in his appellee brief. Clearly this infraction is against the Appellate Court's own Rules 343 (a and c) And petitioner never received a copy of the motion from the respondent

Pertaining to the record on appeal, the court stated (in part)· *"The appellant is directed to file the record on appeal not later than June 6, 2008."*

II. This letter provides evidentiary material believed to bar granting of summary judgment to respondent, and thus denies a perspective jury from deciding on issues of fact. Substantial grounds support reason for rehearing, per *Urban* cited in initial petition for certiorari

Veritext Chicago Reporting Company

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December 21, 2007

To whom it may concern.
In Re: Case of Williams v Thorsen, taken November 7, 2007 for the Circuit Court of Cook County, in the State of Illinois

As of December 21, 2007, Veritext Chicago Reporting Company has not yet received a completed deponent signature page for the deposition of Dr Charles Thorsen, taken in the above-mentioned case. Pursuant to statute, a notification letter was sent to the Law Office of Kominiarek, Bresler, Harvick & Gudmundson on November 9, 2007 and the deponent was given 28 days to read and sign. As a result of the failure to respond within the given time, signature is therefore considered to be waived by the witness.

For any questions regarding this matter, please contact the undersigned

Sincerely,
/s/ Lauren Vickers

(R. C01424)

III. Petitioner believes that critical and substantial grounds for rehearing are supported by excerpts of respondent's deposition and shows conflicts to cross-exam Respondent filed his own copy of his deposition in the circuit court. Sworn testimony and cross-examination follow **(R. C01373)**

Sworn Testimony, p. 61

17 **BY MR. WILLIAMS:**
18 **Q.** So did you discuss the plaintiff's neck
19pain upon turning his head on or about November
20 the 29th, 2003?
21 **A.** Yes
22 **Q.** Did the plaintiff indicate that his pain
23. is still present?
24. **A.** Yes

Sworn Testimony, p. 62

1 **Q.** Did you document this condition that is
2 still present before November the 29th, so on the
3 29th you say that the pain is still present?
4 **MR. FURTH:** Objection. That --
5 **BY MR. WILLIAMS:**
6 **Q.** Did you document this condition that is
7 still present before November the 29th, 2003?
8 **MR. FURTH:** You mean did he document it or
9 was it still present? Object. Form. Foundation
10 Unintelligible question
11 You can answer it, Doctor.
12 **BYTHE WITNESS:**
13 **A.** At that visit, as I reported, we did
14 discuss neck pain that was receiving ongoing
15 treatment by Dr. Pierre
16 **BY MR. WILLIAMS:**
17 **Q.** So the patient is still suffering with

Sworn Testimony, p.62 (continued)

neck pain and this is November.

MR. FURTH: Is that a question or a statement? I don't understand

BY MR. WILLIAMS:

Q. Did the plaintiff complain about neck pain in July?

A. No.

Sworn Testimony, p. 63

Q. Did the plaintiff tell you on or about December the 16th, 2003 that his neck symptoms persisted?

A. I would have to look at my note on that date

(WHEREUPON, a document was tendered to [t]he witness.)

BY MR. WILLIAMS:

Q. Here's the medical record on December 16th

A. Yes, he did describe, "Neck symptoms persist." Actually, that's what I reported.

Q. On or about January the 30th, 2003 did the plaintiff at his own request ask for a referral to see an ear doctor for his dizziness?

A. That is correct

Q. Why do you think he made this request?

MR. FURTH: Objection Calls for speculation as to someone else's state of mind.

You don't have to answer that question

You can ask your next question

BY MR. WILLIAMS:

Q. Did the plaintiff meet with the ENT,

Sworn Testimony, p. 64

Dr. Yeh, on or about February the 4th, 2003?
A. Yes.
Q. Did you follow up with Dr. Yeh to learn of his findings?
A. No
Q. Why not?
MR FURTH: Objection --

Sworn Testimony, p. 64

BY MR. WILLIAMS:
Q. So you know the patient has hypercholesterolemia, he has erectile dysfunction, he is complaining about pain in his neck, and you don't think it's wise -- you did not think that it was wise to do further analysis to check whether or not there was any vascular problems?
MR. FURTH: Objection That's completely

Sworn Testimony, p. 65

argumentative He doesn't have to answer that question

Sworn Testimony, p. 65

BY MR. WILLIAMS:
Q. Did Dr Yeh conclude from his evaluation that the plaintiff's complaint of dizziness may be of vascular origin?
MR. FURTH: Well, that calls for him to speculate as to what Dr. Yeh's conclusion were

Sworn Testimony, p. 65 (continued)

(WHEREUPON, a document was tendered to the witness.)

BY MR. WILLIAMS

Q. Here's the results.

Mr. Furth: Now you're showing him Dr. Yeh's consult note.

Sworn Testimony, p.66

BY THE WITNESS:

A. And at the time that Dr. Yeh wrote this note he made a statement that, "It might be of vascular origin."

BY MR. WILLIAMS:

Q. So this should not have prompted you to pursue whether or not the patient's complaints were of vascular origin?

MR. FURTH: Foundation Form. You haven't established he even knew of that How can you ask him that question? You haven't established that he was advised of that , Mr Williams.

MR. WILLIAMS: I just gave him the medical records, **his medical records** (emphasis added)

MR. FURTH: Fine Go ahead and answer the question.

That's ridiculous. You have to establish a foundation for that. He doesn't --

Cross Testimony, p. 110

EXAMINATION [cont'd by counsel]

Q. On November 29th or on December 16th, 2003 did Mr. Williams tell you of a vascular origin

Cross Testimony, p. 110 (continued)

9 or suspected vascular origin for his neck pain that
10 may have been found by any other physician?
11 **A.** No.
12 **Q.** And on either of those dates or at any
13 other time, did Mr Williams makes complaints to you
14 that could be interpreted or consistent with
15 neurological findings or abnormalities including
16 syncope, near-syncope, vertigo, loss of balance, or
17 other similar type of neurological symptoms related
18 to the condition of his neck?
19 **A.** No.
20 **Q.** If he had made any similar complaints,
21 any complaints of that kind,what would you have
22 done?
23 **A.** I would have investigated further and
24 most likely referred onto neurology or possibly a

Cross Testimony, p. 111

1 vascular surgeon

Clearly respondent's sworn testimony refutes his answers given under cross-examination as they pertain to dizziness (syncope, near-syncope, vertigo, etc) Respondent also refutes his cross-exam when he cited medical records of petitioner's request to see an ear doctor for his dizziness possibly of vascular origins, as evaluated by the ENT doctor, Dr. Yeh.

In addition, respondent alludes to his ability to be an expert witness, excerpt of testimony follows

Sworn Testimony, p. 33

2 **Q.** You do consider yourself to be a
3 qualified -- to be qualified to be an expert witness
4 in medicine: correct?
5 **A.** I'm a practicing general internist.

Sworn Testimony, p. 33 (cont'd from above)

6 **Q.** Internal medicine, what does that
7 include, what areas?
8 **A.** It includes treating adult patients with
9 general medical conditions Those can be
10 cardiovascular, they can renal, they can be
11 endocrine, they can be of the gastrointestinal
trac[t],
12 they can be in the genital/urinary trac[t], they
can be
13 in the musculoskeletal trac[t].
14 **Q.** What is the standard of care for treating
15 a patient complaining of neck pain?
16 **MR. FURTH:** Objection. Overbroad
17 Incomplete hypothetical Omits too many facts to
18 form the basis of an answer
19 But you can go ahead and answer that
20 question.
21 **BY THE WITNESS:**
22 **A.** I don't know that there's a standard of
23 care necessarily established

Petitioner contends that respondent's sworn testimony is self-incriminating, which may explain the constant disruptions. deemed not allowed during a trial. And was exacerbated when questions were posed relating to deficit in eyesight from the stroke.

Sworn Testimony, p 80

17 **BY MR. WILLIAMS:**
18 **Q.** From the medical report from Dr. Biller,
19 does it say that the damage is in both eyes?
20 **MR. FURTH:** Objection The report speaks for
21 itself Why do you need to ask him what it says?
22 **BY THE WITNESS:**
23 **A.** The report does say homonymous which
24 implies both eyes

IV. Integral to the respondent's efforts to not allow this case to proceed to trial is most evident in the record that the lower courts, seemingly, chose to ignore. IL Supreme Court Rules were violated, especially Rules of Discovery, which is broadly favored. Respondent provided two (2) pages of documents in response to "Notice To Produce"**(R. C01345)**, and argued before the court on November 13, 2007, that if the petitioner wanted the documents requested, he would have to cover the cost to have them copied or visit counsel's office to view them This was several weeks after petitioner hand-delivered about 1200 pages of documents, and CD's to counsel's office. in response to "Notice To Produce" propounded on he

It is with chagrin that petitioner asks· How many infractions of the law in the lower courts is the respondent allowed, as an opponent to a pro se litigant, before the egregiousness is addressed, and thereby, to exact some sense of fairness in view of petitioner's presumption of partiality towards the respondent?

CONCLUSION

For the reasons set forth above, petitioner prays that this Honorable Court grant rehearing of petitioner's denied petition for a writ of certiorari, or exercise its power of supervision with a summary reversal, due to lower courts' departure from accepted and usual course of judicial proceedings.

Respectfully submitted,

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CERTIFICATE OF PETITIONER

Petitioner, pro se, hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to Rule 44 2

/s/ Alvin L. William
Petitioner, Pro Se